



THE COUNCIL OF STATE GOVERNMENTS
EASTERN REGIONAL CONFERENCE

Weekly Bulletin

September 8 , 2005 - Issue #74

States Step Up Monitoring of Sex Offenders

I. Background

Since the passage of Megan's Law in 1996, each state in the nation has developed and maintained an online registry of all the registered sex offenders and their residency. Over the last nine years, many states have gone beyond the scope of the original legislation by passing laws ranging from notifying residents when a sex offender moves into a community to restricting residency to tightening reporting requirements for offenders. In recent months, several states and localities in the ERC have stepped up efforts to prevent future attacks by improving the monitoring of sex offenders after incarceration.

States are increasingly employing **global positioning satellite technology** which will allow law enforcement officials to know precisely where the monitored sex offenders spend their time and ensure that they keep out of areas restricted to them. The technology will also permit officers to compare their movements to reports of new crimes.

Another restrictive measure includes **sex offender free zones**. The goal of many local laws is to restrict offenders' ability to live in, and move through, communities. When one community acts, surrounding ones often follow suit to avoid being viewed as a haven for sex offenders. Lawmakers contend these measures increase public safety and are necessary in the wake of repeat offenses.

For the most violent offenders, **civil commitment** is used by some states as a legal mechanism to extend confinement for sex offenders that "max out" on their sentences. Civil confinement is one of the most legally challenged responses to sexual offenders. These laws provide for the detention of sexual offenders who a court determines are likely to engage in future acts of sexual violence. To be considered for commitment, most jurisdictions require that the offender suffer from a mental abnormality or personality disorder that makes it likely the offender will commit future acts of sexual violence. However, specific criteria to be considered eligible for civil commitment vary from state to state, and the definition of "mental abnormality" is not consistent across jurisdictions.

Sixteen states and Washington, DC have enacted civil commitment laws.

II. Debate Over Offender Tracking

The CSG/ERC Weekly Bulletin is published every week, highlighting cross-jurisdictional issues of importance to member jurisdictions. The bulletin is available [online](#).

Related Resources

[Web site maps of convicted sex offenders](#)
Virginian Pilot

GPS gear proposed to monitor state's sex offenders
Connecticut Post

Assembly To Discuss Confinement For Sex Offenders
The Empire Journal

[Electronic eye on sex offenders](#)
Albany Times Union

States look to high-tech tools to track, monitor sex offenders
USA Today

[Push to merge sex offender registries](#)
National Post, Canada

Lynch seeks to increase penalties for sex offenders
Foster's Online

Balancing the punitive measures which address residents' fears of sex offenders in their communities with allowing offenders to establish themselves in the community and to get a job after incarceration is a challenge for lawmakers.

Sex offender registries, used in all states for tracking offenders, are effective database tools, listing names, addresses and crimes, but they are often incomplete or out of date. States seek to ensure that registries identify, collect, and properly disseminate relevant information and help states establish appropriate interfaces with the FBI's national system so that state registry information on sex offenders can be obtained and tracked from one jurisdiction to another. Convicted sex offenders are required to register with the state, and keep authorities up to date on any changes to their personal information, such as getting a new address. It is a challenge for state agencies to keep some of these individuals in compliance or to ensure the accuracy of information posted on state registry web sites.

Unlike registries, GPS tracking systems always knows where the offender is. However, laws employing GPS for all sexual offenders, while innovative, have drawn criticism from various groups. Shortcomings include human error in tracking the information; targeting entire categories of criminals, rather than those who are likely to strike again; and the fact that most child-sex abuse victims know their attackers thus rendering tracking devices ineffective.

Some civil liberties groups contend that some residency restrictions (see New York below) can be overly rigid and may marginalize sex offenders, regardless of their crime or how they respond to treatment. For example, the Iowa Civil Liberties Union, on behalf of a group of sex offenders, challenged the state's 2002 residency restriction law in federal court over concerns it effectively creates penal colonies for sex offenders within communities violating the civil rights of individuals who paid their debt to society. Both the Iowa Supreme Court and the U.S. 8th Circuit Court of Appeals upheld the law but the Civil Liberties Union plans to ask the U.S. Supreme Court to review the case.

Civil confinement has been particularly contentious - the detention of anyone in America for reasons other than incarceration for a criminal act has always created difficult dilemmas. However, the U.S. Supreme Court, in its *Kansas v. Hendricks* decision of June, 1997, declared that such continued involuntary commitment to a mental health system after incarceration is constitutional.

The National Mental Health Association (NMHA) is concerned that the mental health system is not the appropriate place for such incarceration. Sexual predator statutes state that the continued confinement of sex offenders in mental health systems is for the safety of the public not treatment of the offender. NMHA adds that the mental health system should not be used as an indefinite dumping ground for criminal offenders who have served their time but are still seen as dangerous.

The Association for the Treatment of Sexual Abusers recommends approaches including increasing the numbers of well-trained probation officers and promoting therapy during and post-incarceration.

III. Federal Activity

Federal lawmakers introduced several bills last spring that would penalize states for failing to tighten supervision. Representative F. James Sensenbrenner Jr. (R-W) and chairman of the House Judiciary Committee, is sponsoring a bill that combines many

Massachusetts F
Service's Global
Positioning
Satellite (GPS) S
Goes Into Effect
[Press Release - M](#)

[See Highlights of
CSG/ERC Annual
in Connecticut](#)

[Sign up for CS
E-Newsletters](#)

CSG/ERC
40 Broad Street,
Suite 2050,
New York, NY 1000
T: (212) 482-2320
F: (212) 482-2344

**CSG does not endorse
editorial content of
pages to which it li
more information,
[Karen Imas, CSG/I
Publications Mana](#)**

separate reform proposals into one package, known as the Children's Safety Act. The Judiciary Committee approved it last month; it goes before the House in September. The bill would require all states to provide uniform information about their sex offenders.

IV. State by State Roundup

Connecticut: In August, Speaker of the House Jim Amann (D-Milford), Attorney General Richard Blumenthal, Chief State's Attorney Christopher Morano and the House Chairs of the Legislature's Judiciary and Public Safety Committees, State Reps. Michael Lawlor (D-East Haven) and Stephen Dargan (D-West Haven), called for reforms that will strengthen the state's sex offender registry. Legislators also unveiled a package of proposals that would tighten reporting requirements, provide for GPS tracking and allow for long-term civil commitments in violent cases. One of the proposals involves having offenders register immediately after they have been convicted rather than when they are released from incarceration. Speaker Amman, who announced the reforms, said that more manpower would be needed to track offenders. Currently, the probation department has a ratio of 45 offenders to one probation officers.

Massachusetts: State lawmakers green-lighted GPS technology to track sex offenders last year - the program went into effect in May 2005. The \$1 million pilot program will track more than 200 of the state's most serious sex offenders on probation or parole. Currently, legislators are working to improve registration laws and make access to lists of convicted sex offenders widely available.

New Hampshire: Governor John Lynch is seeking to replicate a new Florida law which increases prison sentences to 25 years to life for individuals convicted of sexually assaulting children 12 years old and younger. The law also requires mandatory lifetime tracking via GPS for those convicted of sex crimes against children 11 and younger after they are released. Lynch would like to see a bill pass in the legislative session that starts in January.

New Jersey: A bill signed in early August by Acting Governor Richard Codey makes New Jersey the third state in the nation to use GPS technology to monitor the movements of the worst sex offenders in the state. The new law requires the chairman of the State Parole Board, in consultation with the Attorney General, to establish a two-year pilot program for the continuous, satellite-based monitoring of certain sex offenders. It also authorizes annual polygraph examinations of certain offenders. Ninety days after completion of the pilot program, the Parole Board chairman will submit a report to the Governor and Legislature recommending whether the monitoring should be continued, and if so, expanded to a statewide program.

There are currently 2900 sex offenders under supervision by parole officers for life in NJ. Up to 250 sex offenders will be monitored under the pilot program. They would include those determined to have a high risk of offending again.

New York: In the city of Binghamton, a new law prohibits registered moderate- and high-risk sex offenders from living or entering within a quarter-mile radius of any public or private school, day-care center, playground, or park. The law renders virtually the whole city uninhabitable for these individuals. This is one of the most far reaching residence restrictions for offenders in the nation. Fifteen plaintiffs have sued in federal court over the law. Richard Bucci, mayor of Binghamton, feels the state has not gone far enough thus he approved strengthening local policies. The city has delayed enforcing the law

until a court case challenging the initiative is resolved.

Pennsylvania: Delaware County already tracks sex offenders with GPS, and Montgomery County expects to use GPS on a sex offender for the first time later this year. Legislation to mandate statewide satellite tracking of "sexually violent predators" is pending.

Rhode Island: In August, Lt. Gov. Charles J. Fogarty announced that he will seek to toughen penalties for sexual predators who target children. Fogarty will introduce the Child Safety and Protection Act of 2006 which will include a mandatory minimum 25-year prison sentence for criminals convicted of first degree child molestation and mandatory GPS electronic surveillance of child sexual molesters upon their release from prison. In 1998, Fogarty authored the state law which requires lifetime community supervision of first degree child molesters. Fogarty's proposal will put Rhode Island penalties for first degree child molestation in line with the recently enacted "Jessica's Law" in Florida.